

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MARK ANTHONY TROUTT,)
Petitioner,)
v.) Case No. CIV-13-540-D
JUSTIN JONES, Director,)
Respondent.)

ORDER

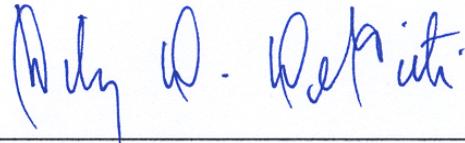
This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B)-(C). Judge Erwin recommends summary dismissal of the Petition as time-barred by the Antiterrorism and Effective Death Penalty Act (AEDPA), 28 U.S.C. § 2244(d). The record reflects that Petitioner has neither filed a timely objection to the Report, nor requested additional time to object. The Court therefore finds that Petitioner has waived further review.

See Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996).

IT IS THEREFORE ORDERED that the Court adopts the Report and Recommendation [Doc. No. 11]. The Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus [Doc. No. 1] is DISMISSED, and Petitioner's Motion for Judgment [Doc. No. 6] is DENIED. Judgment shall be entered accordingly.

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court must issue or deny a certificate of appealability (“COA”) when it enters a final order adverse to a petitioner. A COA may issue only upon “a substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. §2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Where a claim is dismissed on procedural grounds, “a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 484. Upon consideration, the Court finds this standard is not met under the circumstances of this case, and therefore, a COA will be denied. The denial shall be included in the judgment.

IT IS SO ORDERED this 3rd day of September, 2013.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE